

REMARKS

Compliance with 35 U.S.C. §102(a)

Claims 1-12 and 14 were rejected under 35 U.S.C. §102(a) as being anticipated by Yamamoto (WO 03/039644). However, the publication dates of Yamamoto (WO 03/039644) and priority documents to which it claims priority are all after the priority date for the instant application of August 8, 2002. The relevant references and dates are summarized below:

Present Application

National Phase 371(c) date: February 4, 2005

International Application: PCT/JP2003/009972; Filed August 6, 2003

Priority Document: JP2002-231160; **Filed August 8, 2002**

Yamamoto (WO 03/039644)

Publication Date: **May 15, 2003**

Priority Document #1: JP2002-91794; **Published July 15, 2003**

Priority Document #2: JP2001-339707; **Not published**

To qualify as prior art under 35 U.S.C. §102(a), a reference must be “described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.” The earliest publication date for the Yamamoto application is May 15, 2003, which is before the international filing date of the present application, but after the claimed priority date of the present application. The priority date for the present application is based on a Japanese patent application filed on August 8, 2002.

Moreover, to qualify as prior art under 35 U.S.C. §102(e), a PCT publication must be “published . . . in the English language.” Since the Yamamoto application was published in Japanese it does not qualify as prior art under 35 U.S.C. §102(e). In any event, the international publication date of October 31, 2002, was also before the priority date of the present application.

The Examiner asserted that Applicant could not rely upon foreign priority papers to overcome the novelty rejection because such papers had not been made of record in accordance with 37 CFR 1.55. Applicant herewith submits a certified English translation of the Japanese priority document JP2002-231160 in compliance with MPEP 201.15.

Accordingly, the currently pending claims are entitled to the benefit of the filing date of the priority application on August 8, 2002. Since this date is before the May 15, 2003 publication date of the Yamamoto publication, the Yamamoto publication does not qualify as prior art under 35 U.S.C. §102(a).

It should be noted that the Yamamoto publication is the publication of an international application which was published in a language other than English. Accordingly, the Yamamoto publication cannot qualify as prior art under 35 U.S.C. §102(e). Since the Yamamoto reference does not qualify as prior art under any statute, withdrawal of the rejection over Yamamoto is respectfully requested.

CONCLUSION


In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8-27-07

By: 

Eric Ives
Registration No. 50,928
Agent of Record
Customer No.
(805) 547-5580